

1 Kathy E. Mount (SBN 104736)
Kevin E. Gilbert (SBN 209236)
2 MEYERS, NAVE, RIBACK, SILVER & WILSON
555 12th Street, Suite 1500
3 Oakland, CA 94607
Telephone: (510) 808-2000
4 Facsimile: (510) 444-1108

5 Attorneys for Defendants
HEATHER BLOUGH and the MENDOCINO COUNTY
6 COMMUNITY DEVELOPMENT COMMISSION
Erroneously sued as BECHTEL CREEK VILLAGE
7

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 KAREN ANN,

12 Plaintiff,

13
14 v.

15 ROY TINDLE, HEATHER BLOUGH, GARY ONETO,
16 TINA ONETO and BECHTEL CREEK VILLAGE

17 Defendants.
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Case No. C-07 2031 MHP

DEFENDANTS' NOTICE OF APPEARANCE,
REQUEST FOR AUTHORIZATION TO FILE MOTION
TO DISMISS AND PROPOSED ORDER

JURY TRIAL DEMANDED

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21 COMES NOW, DEFENDANTS HEATHER BLOUGH and the MENDOCINO COUNTY COMMUNITY
22 DEVELOPMENT COMMISSION, erroneously named in the Complaint as BECHTEL CREEK VILLAGE and
23 hereby enters an appearance and designate Kathy E. Mount, Esq. and Kevin E. Gilbert, Esq. of the law firm
24 MEYERS NAVE as their attorneys of record for these proceedings. Further, Defendants hereby provide notice
of their demand for a Jury Trial in this proceeding.

25 Pursuant to The Honorable Judge Patel's standing order, Defendants hereby request authorization to
26 file a Motion to Dismiss Plaintiff's Complaint. Said motion to dismiss will be based upon the following grounds:

27 1. This Court lacks jurisdiction over the pending disputes pursuant to the Rooker-Feldman
28 Doctrine.

2. Plaintiff's Complaint is barred pursuant to the principles of Collateral Estoppel and Res Judicata based upon a prior judgment being entered in favor of Defendants as against Karen Ann in Mendocino Superior Court, Case No. MCUKCVUD0513370, a true and correct copy of which is attached hereto as Exhibit A.

3. Plaintiff's claim of civil rights deprivation in violation of 42 USC §1983 is precluded as Plaintiff does not have a constitutional right to the renewal of her lease (see *Downtown Auto Parts Inc. v. City of Milwaukee* (Wis, 1991) 938 F.2nd 705).

4. Defendants are immune from the allegations of Plaintiff based upon the qualified immunity doctrine as established by the United States Supreme Court in *Saucier v. Katz*, 533 US 194 and its progeny.

5. Plaintiff's Second Cause Of Action for Breach of Contract is barred pursuant to Plaintiff's failure to present any claim to Defendants, a public agency and its employees, as required by California Government Code § 910 et seq.

6. Plaintiff has failed to exhaust her otherwise available administrative remedies established by the terms of the contract between the parties and attached as an Exhibit to the First Amended Complaint.

For the foregoing reasons, Defendants respectfully request this Court authorize Defendants to immediately file a Motion to Dismiss. In the alternative, Defendants respectfully request this Court issue an Order extending the time in which Defendants are to file a response to Plaintiff's First Amended Complaint to a date following the Case Management Conference currently scheduled for July 23, 2007.

DATED: June 6, 2007

Respectfully submitted,

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: 

Kevin Gilbert

Attorneys for Defendants

HEATHER BLOUGH and the MENDOCINO

COUNTY COMMUNITY DEVELOPMENT

COMMISSION, Erroneously sued as BECHTEL

CREEK VILLAGE

974478

1 Good Cause Appearing, the Court hereby Grants Defendants Heather Blough and the Mendocino
2 County Community Development Commission's Request to File a Motion to Dismiss. Defendants may file said
3 motion prior to the July 23, 2007 Status Conference and in compliance with the applicable statutes and Court
4 Rules.

5 IT IS SO ORDERED.

6
7 Date: June 20, 2007



EXHIBIT A

RECEIVED DEC 2 4 2005

ENDORSED-FILED

DEC 21 2005

CLERK OF MENDOCINO COUNTY
SUPERIOR COURT OF CALIFORNIA
JAD

1 DAVID RIEMENSCHNEIDER #93368
2 LAW OFFICES OF DAVID RIEMENSCHNEIDER
3 P.O. BOX N
UKIAH, CA 95482
(707) 462-1351

4 Attorney for Plaintiff

7 SUPERIOR COURT OF CALIFORNIA
8 MENDOCINO COUNTY
UKIAH BRANCH

9 COMMUNITY DEVELOPMENT
10 COMMISSION OF MENDOCINO
COUNTY,

MCUK-CVUD-05-13370

11 Plaintiff,

JUDGMENT BY DEFAULT

12 KAREN ANN,

13 Defendant.

14
15 This cause came on regularly for decision by affidavit pursuant to Code of Civil
16 Procedure Section 585(d). The Affidavit of Heather Blough in Support of Judgment
17 by Default and pleadings in the file have been duly considered. The Defendant
18 KAREN ANN was served with Summons and Complaint herein, no appearance was
19 made by or on behalf of said Defendant within the time allowed by law and her Default
20 has been duly entered.

21 **WHEREFORE, IT IS ORDERED AND ADJUDGED THAT:**

22 1. Plaintiff COMMUNITY DEVELOPMENT COMMISSION OF
23 MENDOCINO COUNTY recover from Defendant KAREN ANN possession of the
24 premises described in the Complaint, being the real property in Mendocino County,
25 California, known as 31 Alder Court, Willits, California.

26 2. Plaintiff COMMUNITY DEVELOPMENT COMMISSION OF
27 MENDOCINO COUNTY recover from Defendant its costs and disbursements herein
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- 1 -

JUDGMENT IN UNLAWFUL DETAINER

1 amounting to the sum of \$203.30 and

2 3. The lease under which said property was held by Defendant is hereby
3 declared forfeited.

4 Dated: **DEC 21 2005**, 2005.

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6 **LEONARD J. LACASSE**
7 **JUDGE OF THE SUPERIOR COURT**
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JUDGMENT IN UNLAWFUL DETAINER